

IN THE MATTER OF THE APPLICATION OF
CORNELIUS W. DEMOSS, JR., ET UX FOR
A SPECIAL EXCEPTION AND ZONING
VARIANCE ON PROPERTY LOCATED ON THE
WEST SIDE OF SUMMIT AVENUE, 823'
SOUTH OF HOMELAND AVENUE (3205
SUMMIT AVENUE)
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

OPINION

The Petitioners, Cornelius W. DeMoss, Jr. and Sarah DeMoss, his wife, have filed an appeal to this Board from the decision of the Deputy Zoning Commissioner dated April 27, 1989 wherein their request for a special exception for a residential kennel and request for variances to permit certain setbacks were denied.

The appeal to this Board is de novo and this Opinion and Order is based upon the evidence, testimony and exhibits presented before it at the hearing on January 3, 1990.

Petitioners were represented by Georgia Lewis Leonhart, Esquire. They appeared and testified along with their daughter, Christine DeMoss, who resides with them. Also testifying on behalf of the Petitioners were Leonard Wasilewsky, a Baltimore County Zoning Inspector, and Katherine Phelan, an adjacent property owner. Four neighbors appeared and testified as Protestants. They were: Dale Thomas, Noradeen Lehrer, Mary DeBaufre and Donald Crosby. Deputy People's Counsel, Peter Max Zimmerman, participated in the proceedings.

Specifically, Petitioners are seeking a special exception to use their residential property for a residential kennel, in the rear yard of the property, for the housing of five dogs maintained as family pets and show dogs, and a zoning variance to permit property line setbacks of two inches, thirteen feet, thirty-seven feet, and one hundred eleven feet, all in lieu of the required two hundred foot setback as required by the Baltimore County Zoning Regulations (BCZR).

Case No. 89-226-XA
Cornelius W. DeMoss, Jr., et ux

The subject property is located at 3205 Summit Avenue in a residential community and is approximately one-third of an acre in size. It is zoned D.R.5.5 and is improved by a dwelling, garage and a shed. The Petitioners, along with their daughter, reside at the property.

The collective testimony of the Petitioners disclosed that they have resided at the property since 1972 and that they presently have five dogs, which are Alaskan Malamuts. The dogs are both family pets and show dogs, and have been on the property for the past six years. In the past there have been breedings of the dogs on the premises, but it is the present intention of the Petitioners to only have five dogs on the premises and to keep and maintain these same five dogs without any further breedings for the duration of their lifetime. Petitioners testified that they were aware that the BCZR only permit three adult dogs on the premises and that for them to be able to have the five dogs on the premises, they would need to seek a special exception for a residential kennel. Petitioners testified that they did not feel that the five dogs on the premises posed any real detriment to the surrounding neighbors and that they should be granted the requested special exception and zoning variance. Mr. Leonard Wasilewsky, a Zoning Inspector for Baltimore County, testified that he visited the subject property on five separate occasions during June, August and November, 1989. He did observe the dogs, they were not running loose, there were run areas in the rear of the property and that the dogs did make "some noise". Katherine Phelan testified that she has lived next door to the subject property for one year and that she has never been disturbed by the dogs and has never seen them run loose. She testified that during the summer there was some dog odor, but she was not sure of its source. She had no objections to the presence of five dogs at the Petitioners' property.

The testimony of the Protestants, all of whom lived either adjacent to the subject property, or less than two hundred feet from it, was far less

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Cornelius W. DeMoss, Jr., et ux

sympathetic to the Petitioners' request. Their chief complaints were that of noise, emanation of dog odor and the inability to peacefully and quietly enjoy their residential property.

Mr. Dale Thomas testified that he lived to the rear of the property and that his chief complaint was that of noise. He stated that the dogs howled in concert and that it could be heard in his home with the windows closed. During the month of October, he and his wife made a log of entries and on more than sixty-seven different occasions the dogs were howling which on occasion lasted for minutes at a time. He stated that the effect of the howling disturbed his child, who also had difficulty sleeping as a result of it. Noradeen Lehrer testified that she lived next to the subject property and that the howling of the dogs was "day in and day out" and that the smell from the dogs was horrible in the summertime. She stated that she leaves her windows closed and is unable to enjoy the use of the rear of her property, which is adjacent to the kennel. She stated in her opinion that she has seen no decrease in the noise from the dogs and that they had been a problem for years. Mary DeBaufre, also a nearby neighbor, testified that her chief complaint was noise and that it took place late at night and was a nuisance to her. Mr. Crosby testified that he lives at the Lehrer home, which is immediately adjacent to the kennel, and that while he is trying to sleep the howling noise from the dogs comes through the home and keeps him up at night. He further testified that the present kennel is approximately fifteen to twenty feet from the pool area in the rear of the Lehrer property.

Having given due consideration to all of the evidence and testimony presented in this matter, the Board finds that the request for special exception for a residential kennel should be denied and will so order.

Case No. 89-226-XA
Cornelius W. DeMoss, Jr., et ux

The BCZR do not allow for a residential kennel in a D.R.5.5 zone as a matter of right. Such use is only permitted by special exception upon the Petitioner satisfying the conditions contained in Section 502.1 of the BCZR. Section 502.1(a) requires that a use requested for a special exception shall not be detrimental to the health, safety, or general welfare of the locality involved. It is the opinion of the Board that this condition has not been met by the Petitioners in light of the strong testimony offered by the surrounding neighbors as to the noise, strong odors and disturbances generated by the dogs being present on the subject property. The Petitioners' property is less than one-third of an acre in size and because of its close proximity to the other residential properties in the area which are of similar size, this Board is convinced, and finds as a matter of fact, that the granting of a special exception for the kennel would be a real detriment to the neighborhood and would adversely affect the public interest. The testimony of the Protestants establishes this. Section 421.1 of the BCZR states that a kennel must be located at least two hundred feet from the nearest property line. This regulation is for the purpose of protecting adjacent and surrounding property owners from any possible detrimental effect on their property from the proposed use. In this case, the kennel's location is substantially less than the required two hundred feet and to allow same would be inconsistent with the spirit and intent of the BCZR.

Having decided that the requirements of 502.1 have not been met and that this special exception should be denied, this Board will pass an Order denying the requested special exception. The request for zoning variance is a moot issue by reason of the denial of the Special Exception and does not require a finding of fact by this Board.

Case No. 89-226-XA
Cornelius W. DeMoss, Jr., et ux

ORDER

For the reasons set forth in the foregoing Opinion, it is this 2nd day of February, 1990, by the County Board of Appeals of Baltimore County ORDERED that the requested special exception for a residential kennel be and the same is hereby DENIED.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence E. Schmidt, Acting Chairman

Michael W. Sager

Lynn B. Moreland

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND ZONING VARIANCE - W/S of Summit Avenue, 823' S of Homeland Avenue (3205 Summit Avenue) 11th Election District 6th Councilmanic District
CORNELIUS W. DEMOSS, JR., ET UX
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special exception to use the subject property for a residential kennel, consisting of fenced run areas in the rear yard of the property, for the housing of four to five dogs maintained as family pets and show dogs (AKC conformation and obedience), and a variance to permit property line setbacks of 2 inches, 13 feet, 37 feet and 111 feet all in lieu of the required 200 feet for a "kennel", as more particularly described in Petitioner's Exhibit 1.

The Petitioners appeared, testified and were represented by Georgia Lewis Leonhart, Esquire. Also appearing on behalf of the Petition was Christine DeMoss, Petitioners' daughter. The following persons appeared as Protestants: Dale L. & Kathie Thomas, Thomas Jenkins, Noradeen & Florence Lehrer, Nancy Webster, Andy & Betty Gall, Janice Chason, Donald Crosby, Michele Gorman, Mary DeBaufre, and Mr. & Mrs. E. Bruzdoski.

Testimony indicated that the subject property, known as 3205 Summit Avenue, consists of 0.2565 acres zoned D.R. 5.5 and is improved with a single family dwelling, a garage and a shed. Petitioners have resided on the property since 1972. Petitioners testified they raise Alaskan Malamuts used exclusively as family pets and show dogs and have had 4 to 5 dogs on the property for about 5 years. Testimony indicated that as a result of a complaint filed in the Zoning Enforcement Division,

Petitioners were advised of their option to file a request for a special exception hearing to determine the appropriateness of a kennel on their property and further that variances would be required for the improvements in the rear yard of the property.

Testimony presented by the Petitioners indicated that the dogs are raised as show dogs as well as family pets; that while litters are generally large, the puppies are sold off by the time they reach 4 to 6 months. Petitioners testified that all the dogs are trained and that they are kept in the house or yard and not allowed to run freely. Petitioners have provided fenced-in run areas to exercise the dogs. Petitioners argued that in their opinion, the conditions delineated in Section 502.1 have been met. They further testified they cannot comply with the setback requirements of the zoning regulations as the width and length of the property are inadequate. Counsel argued that to require strict compliance would result in an unreasonable hardship to Petitioners.

Testimony presented by the Protestants indicated that they were concerned about the noise and odor generated by the number of dogs kept on the property. Noradeen Lehrer, the adjoining neighbor whose property line abuts the side for which a 2" setback variance has been requested, testified concerning the adverse impact the kennel has on her and the other family members residing on her property. Ms. Lehrer indicated the barking of the dogs and odors generated interfere with her enjoyment of her back yard and at times even disturbs her family when they are inside. Neighbors residing to the rear of the property on Uxbridge Road testified as to the numerous times they have been awakened during the night as a result of the dogs barking in addition to the adverse impact the dogs have had on their enjoyment of their property during the day.

After the hearing, it was agreed by all parties that a continued hearing should be held at a later date to allow Petitioners and Protestants time to work out their differences and to allow the Deputy Zoning Commissioner time to make a site inspection of the property and surrounding community.

At the hearing held on April 12, 1989 the Petitioners presented testimony and evidence which indicated they have taken measures to abate some of the noise. Mr. DeMoss testified he installed a kennel silencer, a device with a high-pitched sound that would immediately stop dogs from barking; and that he also purchased electronic collars for the dogs. Testimony further indicated that he asked his neighbors to call him in the event they had any complaints about the dogs and that none of his neighbors called.

Upon questioning, the Protestants admitted the noise had quieted immensely over the last few weeks. However, Protestants remain concerned that in the event Petitioners' request is granted, the problems they experienced in the past with the noise and odor from the dogs will recur.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 5.5 zone by special exception. However, it is equally clear that the proposed use would be detrimental to the primary uses in the vicinity, especially in light of the variances requested in this instance.

After reviewing all of the testimony and evidence presented, the conditions delineated in Section 502.1 of the B.C.Z.R. which must be met prior to the granting of a special exception, and a site inspection of the property and surrounding community, it appears that the special exception and variances should not be granted. In the opinion of the Deputy Zoning

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception and variances should be denied.

AMN:bj:

Beginning on the West side of Summit Ave. at the distance of 823 ft. south of Homeland Ave. Being Lot 3 in the Resubdivision of Lots 5 & 50, 57 of Home Acres. Book 17 folio 69. Also known as 3205 Summit Ave. in the 11th Election District

File

Keith Property

Hipler Property

Protestants ^{and}
~~2~~ 2

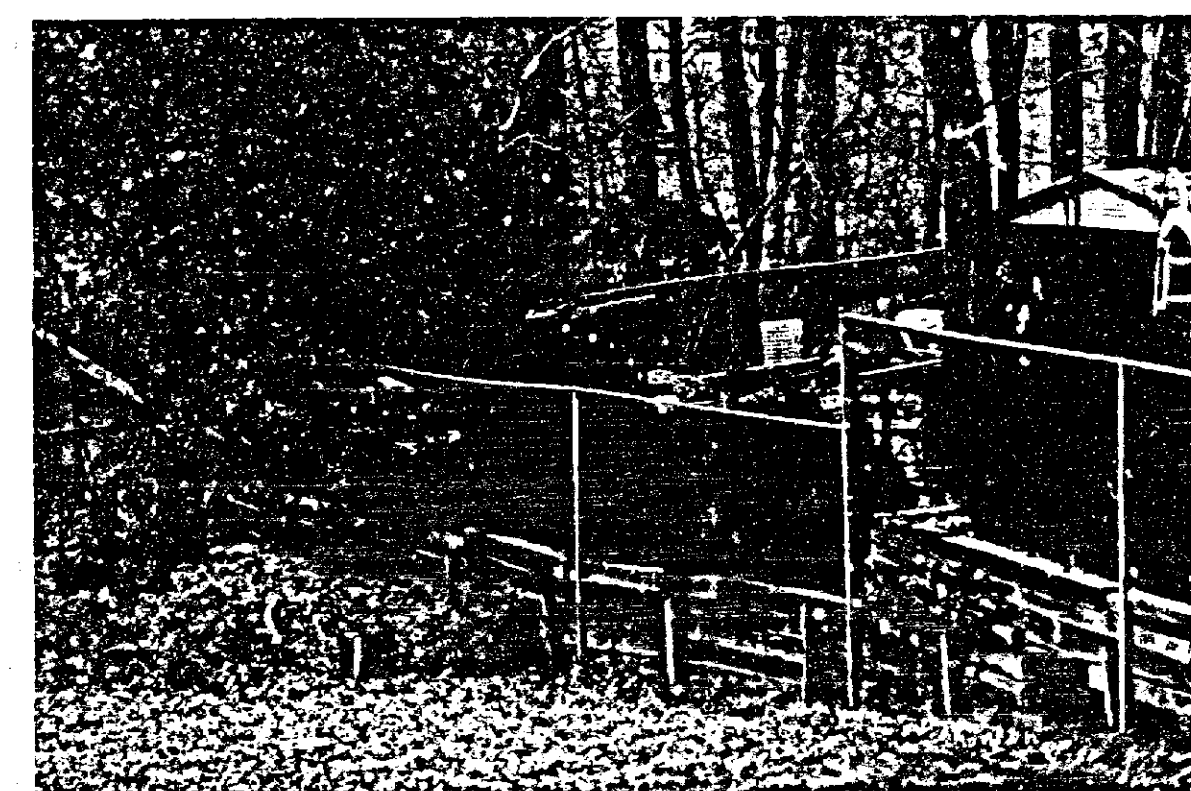
(over)

DeMoss Property



26

Giant Garage

2. \Rightarrow

Behind Garage

ADJOINING BACK YARDS



DeBaufre Property



Thomas Property

20

Z.C.O.—No. 1 (over)

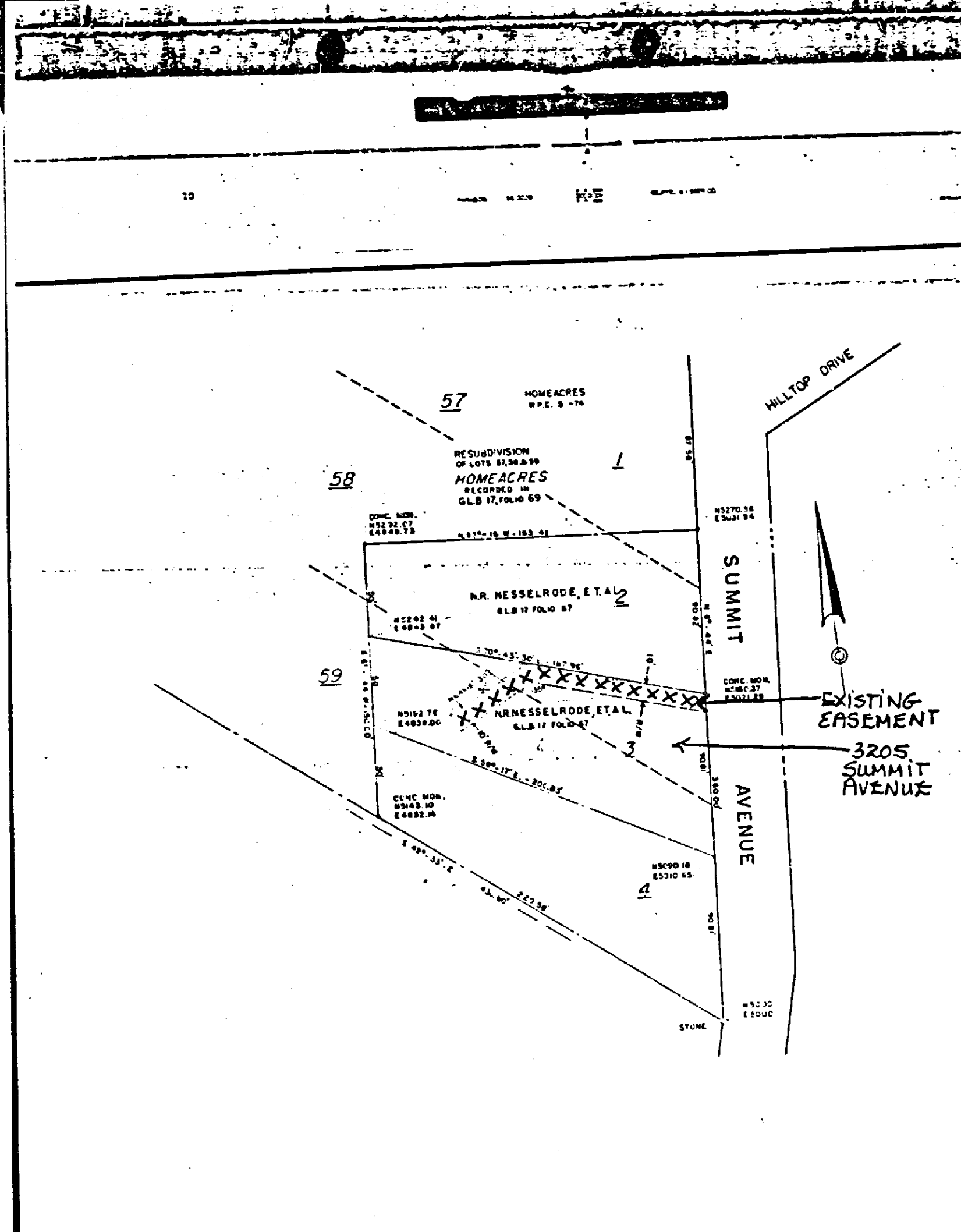
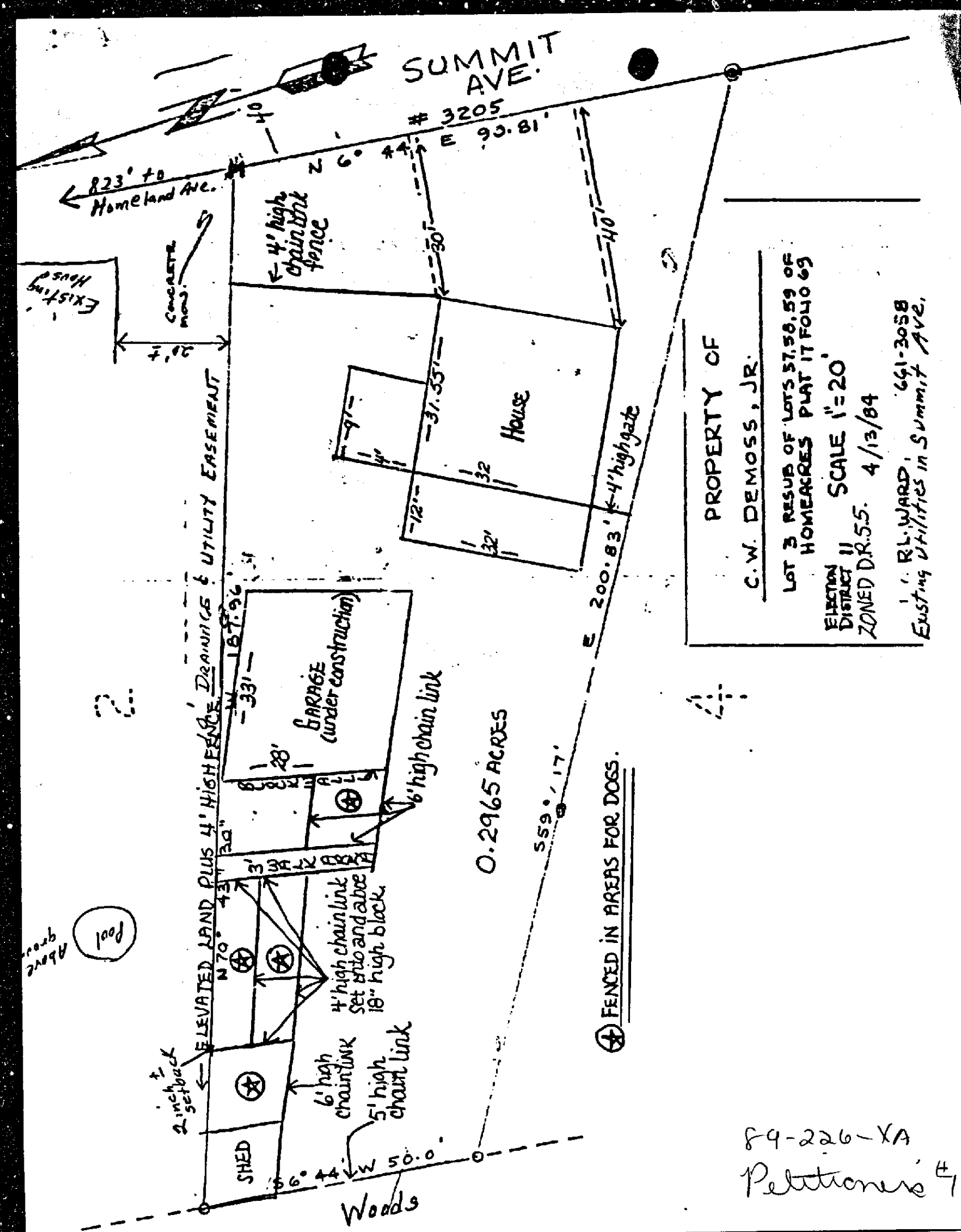
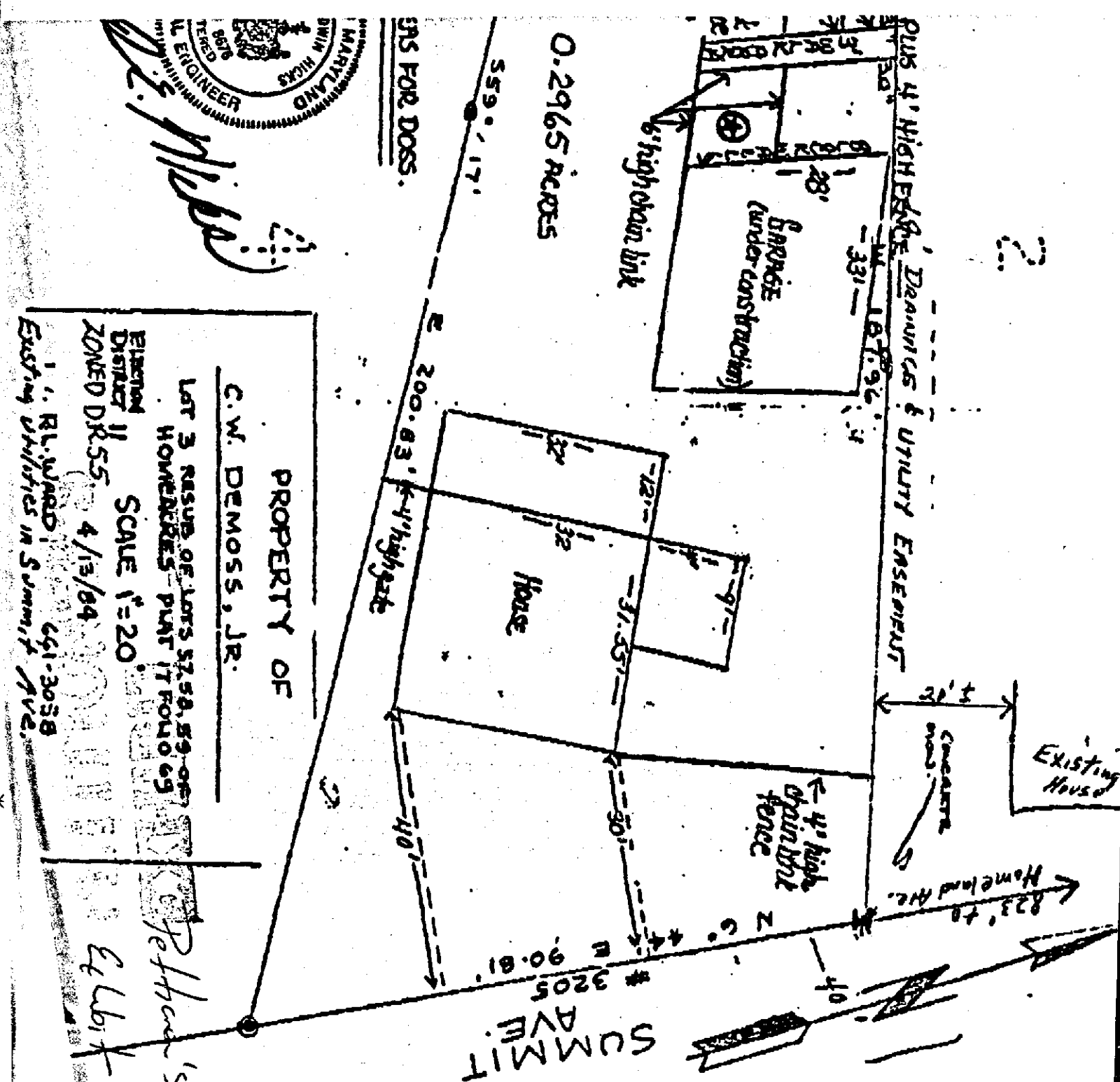
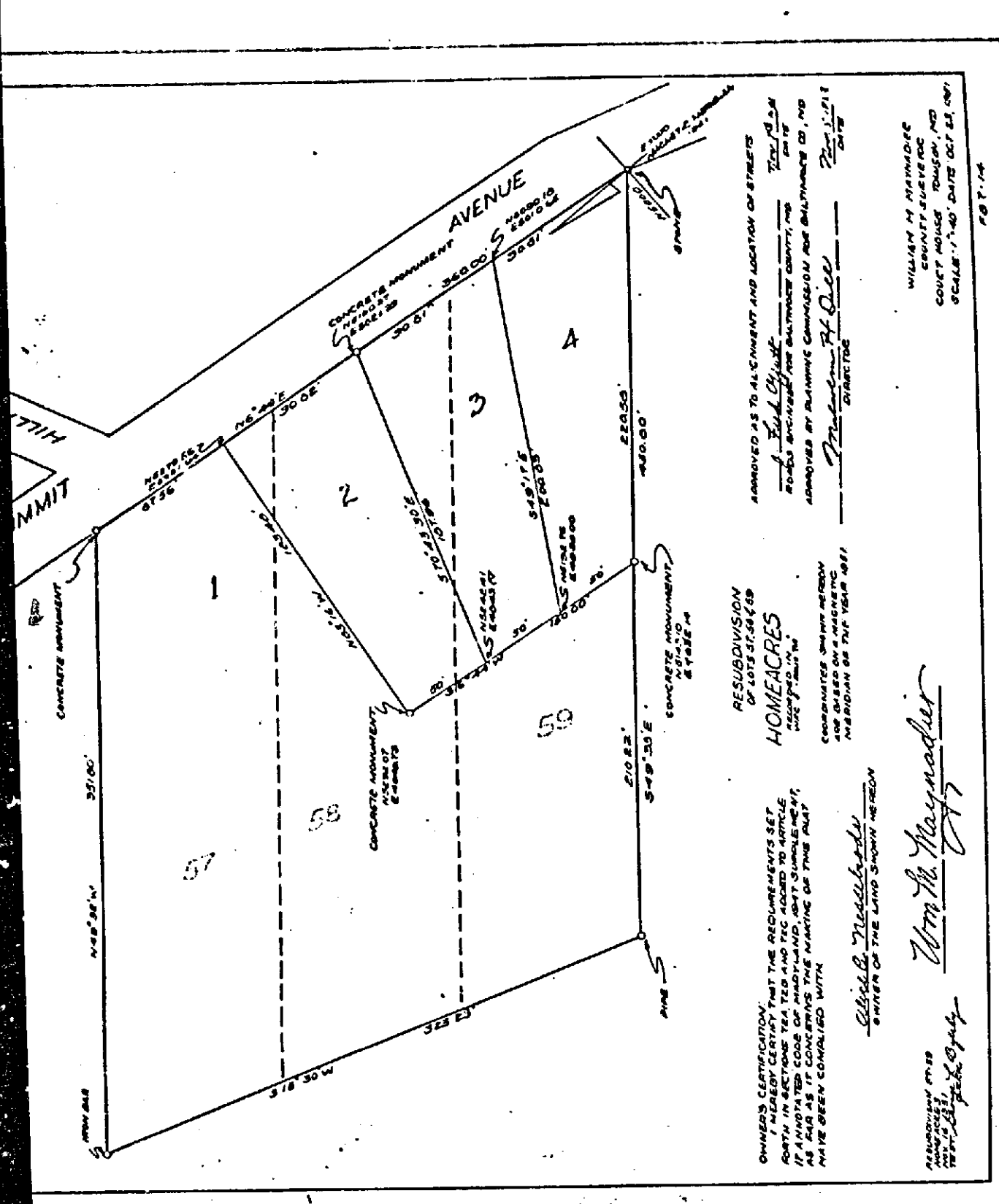
Z. C. O.—No.

(over

89-226-XA
not 2/1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 11/24 Date of Posting 6/1/89
Posted for Appeal
Petitioner: Cornelius W. DeMoss, Jr., et al.
Location of property: 3205 Summit Ave., 823' S of Homeland Ave.
Location of Sign: 3205 Summit Ave., 823' S of Homeland Ave.
Remarks: 1/1/89
Posted by: [Signature] Date of return: 6/1/89
Number of Signs: 1



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
1111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 424-3180 887-3180
September 22, 1989

HEARING ROOM -
Room 301, County Office Building
NOTICE OF ASSIGNMENT
NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-226-XA
CORNELIUS W. DEMOSS, JR., ET AL
W/S of Summit Avenue, 823' S of Homeland Avenue
(3205 Summit Avenue)
11th Election District
6th Councilmanic District
SP - Residential Kennel
VAP-Setbacks
4/27/89 - D.Z.C.'s Order DENYING Petitions

ASSIGNED FOR: WEDNESDAY, DECEMBER 27, 1989 at 10:00 a.m.
cc: Mr. and Mrs. Cornelius W. DeMoss, Jr. Petitioners/Appellants
Georgia Lewis Leonhart, Esquire Counsel for Petitioners/Appellants
Dale & Kathie Thomas
Thomas Jenkins
Noradeen and Florence Lehrer
Nancy Webster
Jy and Betty Gall
Janice Chason
Donald Crosby
Michele Goonan
Mary DeBaufre
Mr. and Mrs. E. Bruzdowski
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastrowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner
Cornelius W. DeMoss, Jr., et al.
3205 Summit Avenue
Baltimore, Maryland 21234

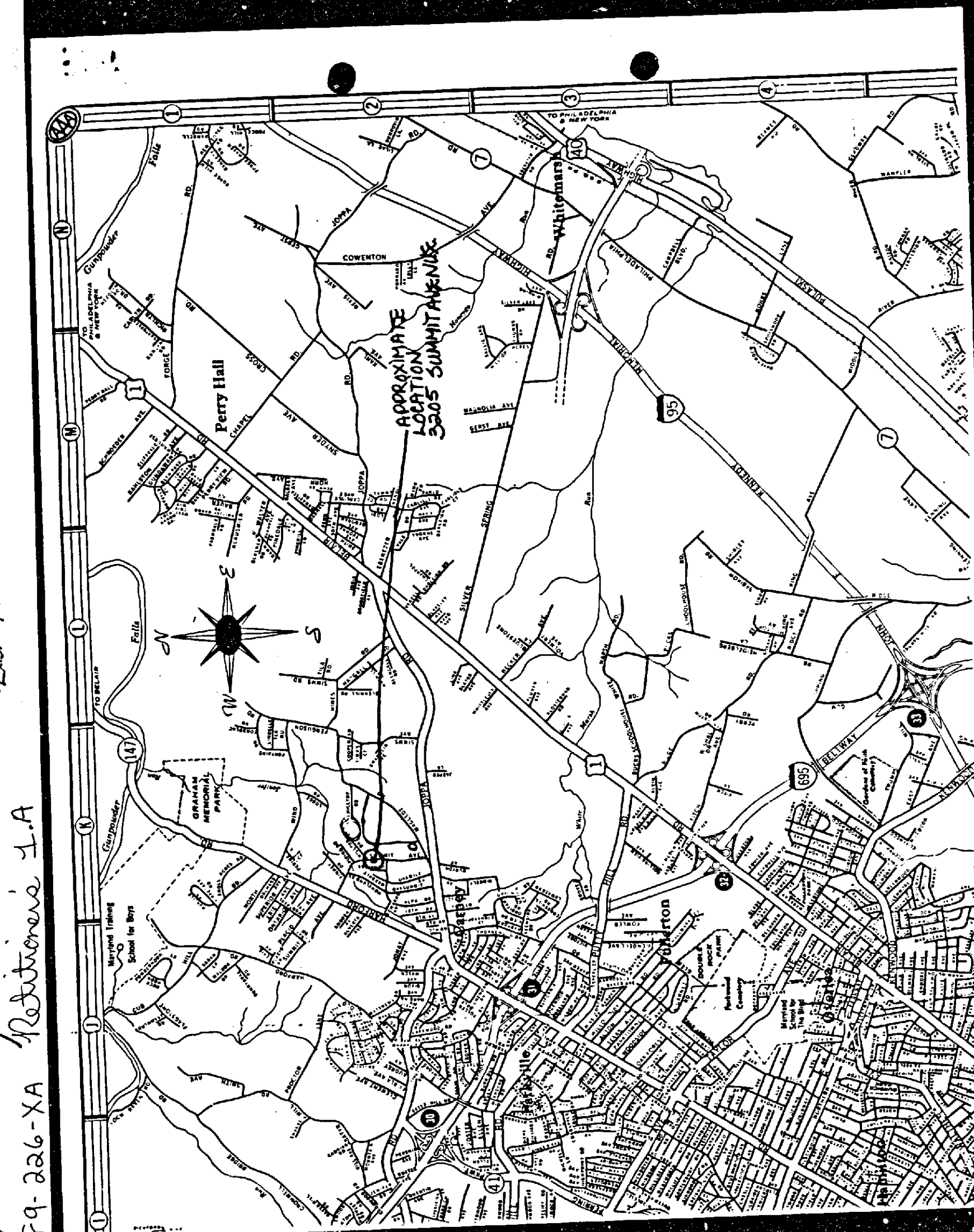
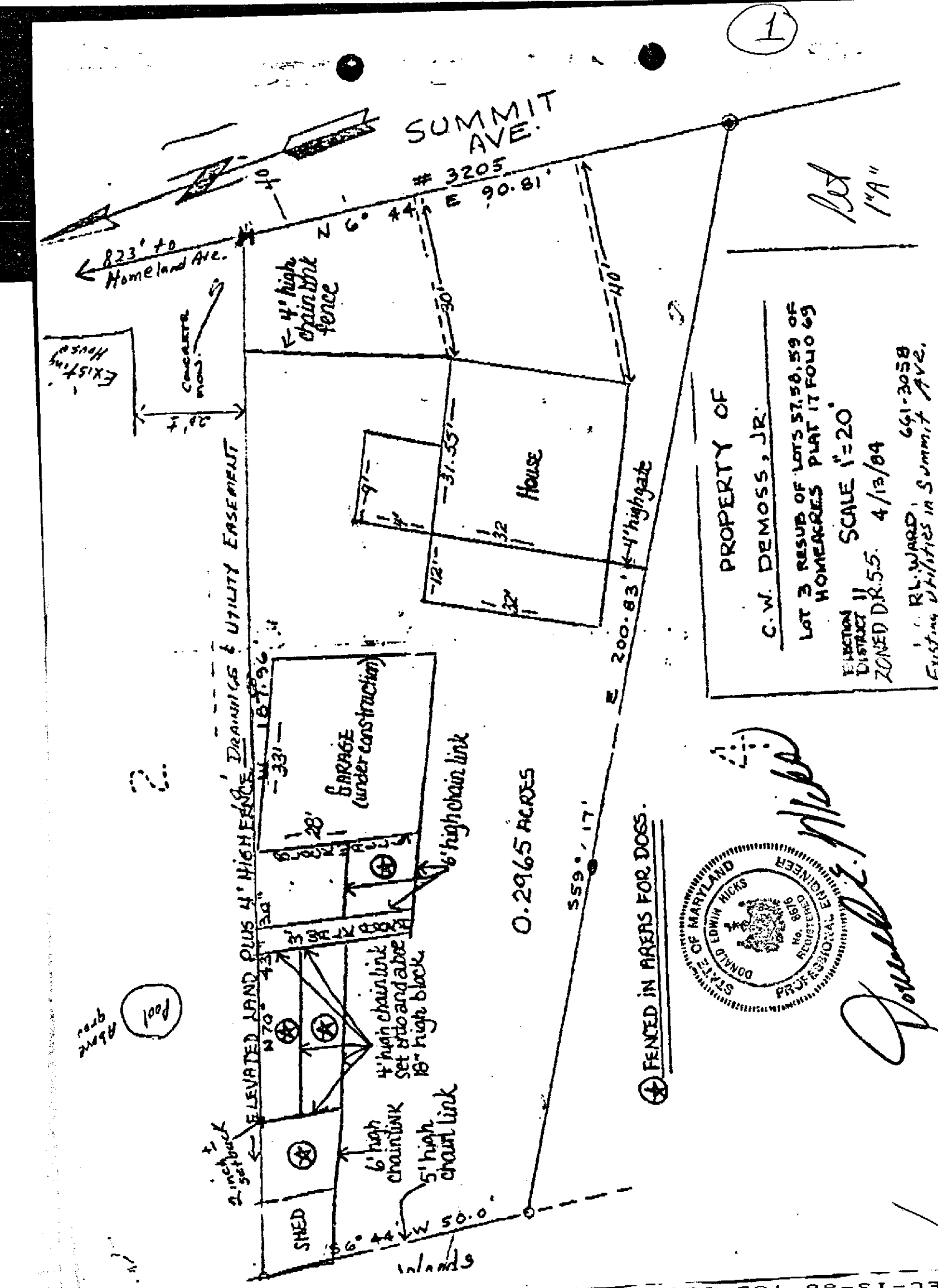
Re: Petitions for Special Exception and Zoning Variance
CASE NUMBER: 89-226-XA
3205 Summit Avenue, 823' S of Homeland Avenue
3205 Summit Avenue
11th Election District - 6th Councilmanic
Petitioner(s): Cornelius W. DeMoss, Jr., et al.
HEARING SCHEDULED: THURSDAY, FEBRUARY 23, 1989 at 9:30 a.m.

Dear Mr. & Mrs. DeMoss:
Please be advised that \$104.83 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before the hearing.

BALTIMORE COUNTY, MARYLAND No. 065793
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE 2/23/89 ACCOUNT R-01-615-000
AMOUNT \$ 104.83
RECEIVED [Signature] 2/23/89
FOR [Signature] 2/23/89
B 8 C17 *****104-89-226-XA



Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

January 20, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Exception & Zoning Variance
CASE NUMBER: 89-226-XA
105 Summit Avenue, 823rd S. Homeland Avenue
3205 Summit Avenue
11th Election District - 6th Councilmanic
Petitioner(s): Cornelius W. DeMoss, Jr., et ux
HEARING SCHEDULED: THURSDAY, FEBRUARY 23, 1989 at 9:30 a.m.

Special Exception: A residential kennel, consisting of a fenced run area in the rear of the property, for the housing of 4 to 5 dogs for the purposes of maintenance as family pets and show (AKC conformation and obedience).
Variance to allow "kennel" setbacks of 2 inches, 13 ft., 37 ft., and 111 ft. in lieu of the required 200 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Cornelius W. DeMoss, Jr., et ux
Georgia Lewis Leonhart, Esq.
Mr. Dale Thomas
Ronald Decker, Esq.
File

2/23/89 - Telephone Mrs. L. to advise of hearing date; she advised she was aware of date. J.R.

*IF PHASE II OF SNOW EMERGENCY PLAN IS IN EFFECT
ON THIS DATE, CASE WILL BE RESCHEDULED. CALL
494-3391 or 887-3391 TO CONFIRM DATE.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

Date: 12/2/88

Mr. & Mrs. Cornelius W. DeMoss, Jr.
3205 Summit Avenue
Baltimore, Maryland 21234

Re: Petitions for Special Exception and Zoning Variance
CASE NUMBER: 89-226-XA
105 Summit Avenue, 823rd S. Homeland Avenue
(3205 Summit Avenue)
11th Election District - 6th Councilmanic
Petitioner(s): Cornelius W. DeMoss, Jr., et ux
HEARING SCHEDULED: WEDNESDAY, DECEMBER 14, 1988 at 2:00 p.m.*

Dear Mr. & Mrs. DeMoss:

Please be advised that \$84.00 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring the original and post(s) to the Zoning Office, County Office Building, Room 106, 111 W. Chesapeake Avenue, Towson, Maryland 21204, 15 minutes before the hearing.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 1/20/89 ACCOUNT: 804-615-000

AMOUNT: \$ 84.00

RECEIVED: Georgia Lewis Leonhart, Esq. 12/14/88 Hearing Date

FOR: P.A. 89-226-XA

VALIDATION OR SIGNATURE OF CASHIER

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

October 31, 1988

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Exception and Zoning Variance
CASE NUMBER: 89-226-XA
105 Summit Avenue, 823rd S. Homeland Avenue
(3205 Summit Avenue)
11th Election District - 6th Councilmanic
Petitioner(s): Cornelius W. DeMoss, Jr., et ux
HEARING SCHEDULED: WEDNESDAY, DECEMBER 14, 1988 at 2:00 p.m.*

Special Exception: A residential kennel, consisting of a fenced run area in the rear of the property, for the housing of 4 - 5 dogs for the purposes of maintenance as family pets and show (AKC conformation and obedience). Variance to allow "kennel" setbacks of 2 inches, 13 ft., 37 ft., and 111 ft. in lieu of the required 200 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Cornelius W. DeMoss, Jr., et ux
Georgia Lewis Leonhart, Esq.
File

*NOTE: IF PHASE II OF THE SNOW EMERGENCY PLAN IS IN EFFECT IN BALTIMORE COUNTY BY 8:30 a.m. ON THE DATE OF THE HEARING, SUCH HEARING WILL BE POSTPONED AND TENTATIVELY RESCHEDULED FOR THURSDAY, JANUARY 12, 1989. PLEASE DOKET CLEAR AT 494-3391 or 887-3391 TO CONFIRM DATE.

GEORGIA LEWIS LEONHART
ATTORNEY AT LAW
INNER HARBOR CENTER
EIGHTH FLOOR
400 EAST PRATT STREET
BALTIMORE, MARYLAND 21202

RECEIVED
JAN 18 1989
ZONING OFFICE

TELEPHONE: 301-421-9090
TELECOM: 301-727-5196
TELEX: 870413 HQ BAL

January 13, 1989

G. G. Stephens, Docket Clerk
Baltimore County Office of Planning and Zoning
111 West Chesapeake Avenue, Room 111
Towson, Maryland 21204

Re: CASE NO.: 89-226-XA
HEARING DATE: February 23, 1989

Dear Ms. Stephens:

In response to your letter of December 14, 1988, and in accordance with our telephone conversation of this morning, enclosed please find check no. 511, payable to Baltimore County in the amount of \$84.00.

Additionally, please find enclosed three copies of the site plan submitted on behalf of my clients, now complete with the required engineer's seal. The seal was provided, following review of the plan and subject property, by Hick's Engineering Company, Inc., Civil Engineers, 200 East Joppa Road, Suite 402, Towson, Maryland 21204 (by Donald E. Hicks).

This shall further confirm that the hearing on this matter has been rescheduled for February 23, 1989. Mr. DeMoss shall promptly dismantle and return to your office the sign previously posted upon his property.

If you have any questions, please feel free to contact me. Thank you for your assistance and cooperation.

Very truly yours,
Georgia Lewis Leonhart
Georgia Lewis Leonhart

GLL:jpp
enclosures

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

December 14, 1988

Georgia Lewis Leonhart, Esq.
Inner Harbor Center, 8th Floor
400 East Pratt Street
Baltimore, Maryland 21202

Re: Zoning Hearing Postponement Request:
CASE NUMBER: 89-226-XA
HEARING DATE: December 14, 1988

Dear Ms. Leonhart:

This to confirm postponement of the above captioned hearing.

Please be advised that although the matter did not go forward on the above date, advertising and posting fees incurred relative to this date must be paid.

Therefore, kindly forward your check in the amount of \$84.00 to this office via return mail.

The case will be rescheduled for a hearing date sometime in early February of 1989 and further advertising and posting fees will be billed to you. As soon as a date is set, this office will notify your office.

Thank you for your kind cooperation.

Very truly yours,

G. G. Stephens
Docket Clerk
887-3391

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

September 23, 1988

Georgia L. Leonhart, Esquire
Inner Harbor Center, 8th Floor
400 East Pratt Street
Baltimore, Maryland 21202

Re: Petition for Special Exception and Zoning Variance, Item #125
3205 Summit Avenue
11th Election District

Dear Ms. Leonhart:

Subsequent to your September 22nd appointment in this office, Mr. Dyer reviewed this matter with J. Robert Haines, Zoning Commissioner of Baltimore County. Per Mr. Haines, sealed site plans must be presented by the hearing date.

If you have any questions please do not hesitate to call.

Yours truly,

John J. Sullivan, Jr.
John J. Sullivan, Jr.
Planning & Zoning Assoc. III

JJS, Jr.:dt

cc: File

CERTIFICATE OF PUBLICATION

TOWSON, MD., November 16, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on November 16, 17, 1988.

THE JEFFERSONIAN,
THE NORTHEAST TIMES

S. Zerk Olson
Publisher

PO 05843
reg M20445
case # 89-226-XA
price \$69.00

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11th Date of Posting: 11/26/88
Posted for: Special Exception & Variance
Petitioner: Cornelius W. DeMoss, Jr., et ux
Location of property: 3205 Summit Ave. 11th Election District
Location of Sign: 3205 Summit Ave. 11th Election District
Remarks: As per plan by G. L. Leonhart
Posted by: *[Signature]* Date of return: 12/1/88
Number of Signs: 1

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Dale F. Thomas	7719 W. Bridge Rd.
Thomas J. Thomas	3205 Summit Ave.
Thomas J. Thomas	3203 Summit Ave.
Thomas J. Thomas	9719 W. Bridge Rd.
Thomas J. Thomas	9701 W. Bridge Rd.
Thomas J. Thomas	9712 W. Bridge Rd.
Thomas J. Thomas	9717 W. Bridge Rd.
Thomas J. Thomas	9715 W. Bridge Rd.
Thomas J. Thomas	3203 Summit Ave.
Thomas J. Thomas	3204 Summit Ave.
Thomas J. Thomas	3203 Summit Ave.
Thomas J. Thomas	9719 W. Bridge Rd.
Thomas J. Thomas	3114 Summit Ave.

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Georgia Lewis Leonhart Esq.	400 E. Pratt Street, 8th Floor Baltimore, Md. 21202
Cornelius W. DeMoss	3205 Summit Avenue Baltimore, Md. 21234
John DeMoss	
Christine DeMoss	

89-226-XA
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
5th day of October, 1988.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
Petitioner: Cornelius W. DeMoss, Jr., et ux
Attorney: Georgia L. Leonhart
Chairman, Zoning Plans
Advisory Committee

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
494-3334

October 28, 1988

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:
The Bureau of Traffic Engineering has no comments for items
number 107, 112, 115, 116, 117, 118, 119, 120, 122, 123, 124, 126,
and 127.

Very truly yours,

Michael S. Flanagan
Michael S. Flanagan
Engineering Associate

MSP/1W

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: James E. Dyer
Zoning Supervisor
FROM: James H. Thompson
Zoning Enforcement Coordinator
RE: Item No. 125 (if known)
Petitioner: DeMoss (if known)

VIOLATION CASE # C-89-39

LOCATION OF VIOLATION 3205 Summit Avenue

DEFENDANT Cornelius W. DeMoss, Jr.
ADDRESS 3205 Summit Avenue Baltimore, MD 21234

Please be advised that the aforementioned petition is the subject
of an active violation case. When the petition is scheduled for a
public hearing, please notify the following persons:

NAME ADDRESS
Norlene Lehere 3203 Summit Avenue
Baltimore, Maryland 21234

After the public hearing is held, please send a copy of the Zoning
Commissioner's Order to the Zoning Enforcement Coordinator, so that the
appropriate action may be taken relative to the violation case.
eoh/

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 6, 1988

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

MEMBERS
Bureau of
Engineering
Department of
Traffic Engineering
State Roads Commission
Bureau of
Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial
Development

Georgia L. Leonhart, Esquire
Inner Harbor Center, 8th Floor
400 East Pratt Street
Baltimore, Maryland 21202

RE: Item No. 125, Case No. 89-226-XA
Petitioner: Cornelius W. DeMoss, Jr., et ux
Petition for Special Exception and Variance

Dear Ms. Leonhart:

The Zoning Plans Advisory Committee has reviewed the plans
submitted with the above referenced petition. The following
comments are not intended to indicate the appropriateness of
the zoning action requested, but to assure that all parties are
made aware of plans or problems with regard to the development
plans that may have a bearing on this case. Director of
Planning may file a written report with the Zoning Commissioner
with recommendations as to the suitability of the requested
zoning.

Enclosed are all comments submitted from the members of the
Committee at this time that offer or request information on
your petition. If similar comments from the remaining members
are received, I will forward them to you. Otherwise, any
comment that is not informative will be placed in the hearing
file. This petition was accepted for filing on the date of the
enclosed filing certificate and a hearing scheduled
accordingly.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:dt

Enclosures

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief
J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

October 3, 1988

Re: Property Owner: Cornelius W. DeMoss, Jr., et ux
Location: W/S Summit Avenue, 823' S. of Homeland Avenue
Item No.: 125 Zoning Agenda: Meeting of 10/4/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this
Bureau and the comments below marked with an "X" are applicable and required
to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be
located at intervals or feet along an approved road in accor-
dance with Baltimore County Standards as published by the Department
of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at
EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the
Fire Prevention Code prior to occupancy or beginning of operation.
- () 5. The buildings and structures existing or proposed on the site shall
comply with all applicable requirements of the National Fire Pro-
tection Association Standard No. 101 "Life Safety Code," 1976 edition
prior to occupancy.
- () 6. Site plans are approved, as drawn.
- (X) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *John F. O'Neill* Noted and Approved: Fire Prevention Bureau
Special Inspection Division

/s/

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

J. Robert Haines
TO: Zoning Commissioner
Pat Keller, Deputy Director
FROM: Office of Planning and Zoning
C.W. DeMoss, Jr.
SUBJECT: Zoning Petition No. 89-226-XA

December 12, 1988

The applicant is requesting a special exception and variance to provide a kennel
for the housing of 4-5 dogs for AKC conformation and obedience. In reference
to the request staff, provides the following:

- The applicant's site plan is prepared in a manner that may be misleading.
Inaccuracies of dimension and layout create some confusion as to actual
areas for runs, kennels, etc. In particular, neighboring properties
are not clearly displayed and marked on the site plan.
- Staff concerns regarding this particular use (dog kennels) within
residential zones center on issues of noise, proliferation or expansion
of use, layout of site in regard to kennels and runs, hours of operation
of commercial use (if any), and lighting of site (if any). In addition,
any approvals of this site should be specifically limited to the
applicant's request and no subsequent users.

Based upon the analysis conducted and information provided, staff recommends
denial of the variances requested, and provides no comment on the request for
special exception due to inadequate information.

PK/sf

Appeal - Case No. 89-226-XA
Cornelius W. DeMoss, et ux - Petitioners
June 2, 1989
Page 2

Dale & Kathie Thomas, 9719 Uxbridge Road, Baltimore, MD 21234
Thomas Jenkins, 3200 Summit Avenue, Baltimore, MD 21234
Nordeen & Florence Lehrer, 3203 Summit Ave., Baltimore, MD 21234
Nancy Webster, 9701 Uxbridge Road, Baltimore, MD 21234
Andy & Betty Gall, 9717 Uxbridge Road, Baltimore, MD 21234
Janice Chason, 9715 Uxbridge Road, Baltimore, MD 21234
Donald Crosby, 3203 Summit Avenue, Baltimore, MD 21234
Michele Goonan, 3204 Summit Avenue, Baltimore, MD 21234
Mary DeBaufre, 9721 Uxbridge Road, Baltimore, MD 21234
Mr. & Mrs. E. Bruzdowski, 3114 Summit Avenue, Baltimore, MD 21234
People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204
File

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

J. Robert Haines
TO: Zoning Commissioner
Pat Keller, Deputy Director
FROM: Office of Planning and Zoning
C.W. DeMoss, Jr.
SUBJECT: Zoning Petition No. 89-226-XA

December 12, 1988

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applicant's request and no subsequent users.

Based upon the analysis conducted and information provided, staff recommends
denial of the variances requested, and provides no comment on the request for
special exception due to inadequate information.

PK/sf

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

June 2, 1989

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Exception & Zoning Variance
W/S of Summit Avenue, 823' S of Homeland Avenue
(3205 Summit Avenue)
11th Election District, 6th Councilmanic District
CORNELIUS W. DEMOSS, JR., ET UX - Petitioners
Case No. 89-226-XA

Dear Board:

Please be advised that an appeal of the above-referenced case was
filed in this office on May 30, 1989 by Georgia Lewis Leonhart,
Attorney on behalf of the Petitioners. All materials relative to the
case are being forwarded herewith.

Please notify all parties to the case of the date and time of the
appeal hearing when it has been scheduled. If you have any questions
concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. & Mrs. Cornelius W. DeMoss, Jr. & Christine DeMoss
3205 Summit Avenue, Baltimore, Maryland 21234

Georgia Lewis Leonhart, Inner Harbor Center, Eighth Floor
400 East Pratt Street, Baltimore, Maryland 21202

14-5 WA 9-WH 68
RECEIVED
COUNTY BOARD OF APPEALS

9/22/89 - Following parties notified of hearing set for December 27, 1989 at 10:00 a.m.:

Mr. and Mrs. Cornelius DeMoss, Jr.
Georgia Lewis Leonhart, Esquire
Dale & Kathie Thomas
Thomas Jenkins
Noradeen & Florence Lehrer
Nancy Webster
Andy and Betty Gall
Janice Chason
Donald Crosby
Michele Goonan
Mary DeBaufre
Mr. and Mrs. E. Bruzdowski
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

12/27/89 - Notice of Postponement and Reassignment sent to above parties advising case has been reset for January 3, 1990 at 9:00 a.m.

County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
1111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 474-3180 887-3180

County Office Bldg.
December 27, 1989

NOTICE OF POSTPONEMENT AND REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-226-XA CORNELIUS W. DEMOSS, JR., ET UX
W/s of Summit Ave., 823' S of Homeland Ave.
(3205 Summit Ave.)
11th Election District
6th Councilmanic District
SE - Residential Kennel
VAR-setbacks

4/27/89 - D.Z.C.'s Order DENYING Petitions.
which was scheduled for hearing on December 27, 1989 has been POSTPONED on the record and with agreement of Counsel as to date and time has been

REASSIGNED FOR: WEDNESDAY, JANUARY 3, 1990 at 9:00 a.m.

cc: Mr. and Mrs. Cornelius Demoss Appellant/Petitioners
Georgia L. Leonhart, Esquire Counsel for Appellants/Petitioners
Dale & Kathie Thomas

Thomas Jenkins
Noradeen & Florence Lehrer
Nancy Webster
Andy and Betty Gall
Janice Chason
Donald Crosby
Michele Goonan
Mary DeBaufre
Mr. and Mrs. E. Bruzdowski
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

LindaLee M. Kuszmual
Legal Secretary

County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
1111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 474-3180 887-3180

County Office Building
September 22, 1989

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-226-XA CORNELIUS W. DEMOSS, JR., ET UX
W/s of Summit Avenue, 823' S of Homeland Avenue
(3205 Summit Avenue)
11th Election District
6th Councilmanic District
SE - Residential Kennel
VAR-setbacks

4/27/89 - D.Z.C.'s Order DENYING Petitions

ASSIGNED FOR: WEDNESDAY, DECEMBER 27, 1989 at 10:00 a.m.

cc: Mr. and Mrs. Cornelius W. DeMoss, Jr. Petitioners/Appellants
Georgia Lewis Leonhart, Esquire Counsel for Petitioners/Appellants
Dale & Kathie Thomas

Thomas Jenkins
Noradeen & Florence Lehrer
Nancy Webster
Andy and Betty Gall
Janice Chason
Donald Crosby
Michele Goonan
Mary DeBaufre
Mr. and Mrs. E. Bruzdowski
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

LindaLee M. Kuszmual
Legal Secretary

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

CASE NO. 89-226-XA CORNELIUS W. DEMOSS, JR., ET UX
W/s of Summit Ave., 823' S of Homeland Ave.
(3205 Summit Avenue)
11th Election District
6th Councilmanic District
SE-Residential Kennel
VAR-setbacks

SUBPOENA

TO: Zoning Inspector Leonard Wasilewski
Zoning Enforcement Section
Baltimore County Office of Planning and Zoning
111 W. Chesapeake Avenue
Towson, Maryland 21204

At the request of Cornelius W. DeMoss, you are commanded by the County Board of Appeals of Baltimore County to appear and testify at the following date, time and place:

Date: January 3, 1990
Time: 9:00 a.m.
Place: Room 301, County Office Building.

County Board of Appeals of Baltimore County,

Robert Haines

Date of issuance: January 2, 1990.
Remand to MR. Bill 8-126 (a), I, the undersigned, hereby certify that service of process was executed on Leonard Wasilewski on January 2, 1990, by delivering and leaving a copy of the subpoena.
I further certify that I am over 18 yrs. of age and am not party to this action. I solemnly declare and affirm under penalty of perjury that the matters and facts set forth herein are true to the best of my knowledge, information, and belief.

Rest Ack *Robert Haines*

1-2 18-25
111 W. Chesapeake
#104. Towson MD 21204

2-13 13 Z-NVCC
2-13 13 Z-NVCC
2-13 13 Z-NVCC

1



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
1111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 474-3180 887-3180

HEARING ROOM -
Room 301, County Office Bldg.

December 27, 1989

NOTICE OF POSTPONEMENT AND REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-226-XA CORNELIUS W. DEMOSS, JR., ET UX
W/s of Summit Ave., 823' S of Homeland Ave.
(3205 Summit Ave.)
11th Election District
6th Councilmanic District
SE - Residential Kennel
VAR-setbacks

4/27/89 - D.Z.C.'s Order DENYING Petitions.

which was scheduled for hearing on December 27, 1989 has been POSTPONED on the record and with agreement of Counsel as to date and time has been

REASSIGNED FOR: WEDNESDAY, JANUARY 3, 1990 at 9:00 a.m.

cc: Mr. and Mrs. Cornelius Demoss Appellant/Petitioners
Georgia L. Leonhart, Esquire Counsel for Appellants/Petitioners
Dale & Kathie Thomas

Thomas Jenkins
Noradeen & Florence Lehrer
Nancy Webster
Andy and Betty Gall
Janice Chason
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Mr. and Mrs. E. Bruzdowski
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P. David Fields
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J. Robert Haines
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James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, County Attorney

LindaLee M. Kuszmual
Legal Secretary

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

CASE NO. 89-226-XA CORNELIUS W. DEMOSS, JR., ET UX
W/s of Summit Ave., 823' S of Homeland Ave.
(3205 Summit Avenue)
11th Election District
6th Councilmanic District
SE-Residential Kennel
VAR-setbacks

SUBPOENA

TO: Zoning Inspector Leonard Wasilewski
Zoning Enforcement Section
Baltimore County Office of Planning and Zoning
111 W. Chesapeake Avenue
Towson, Maryland 21204

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Date: January 3, 1990
Time: 9:00 a.m.
Place: Room 301, County Office Building.

County Board of Appeals of Baltimore County,

Robert Haines

Date of issuance: January 2, 1990.

Section 420--HELICOPTER OPERATIONS [Bill No. 85, 1967.]

420.1--Notwithstanding other provisions of these regulations to the contrary, certain helicopter operations shall be permitted as provided under this Section 420. [Bill No. 85, 1967.]

420.2--Temporary use may be made of an area for helicopter flights for promotional activities, providing that such area shall be at least 500 feet from any occupied residence and that use permits shall be first procured from the Director of Public Safety and the Zoning Commissioner and that such permits shall be limited as to time as specified by the Zoning Commissioner. [Bill No. 85, 1967.]

420.3--Helicopters may be used to move equipment and supplies at construction sites, provided that a permit for such use is first obtained from the Director of Public Safety. [Bill No. 85, 1967.]

420.4--Helicopters may make landings on public utility rights of way and, with the owners' consent, on land adjacent thereto for purposes of inspection or repairs of public utility facilities. [Bill No. 85, 1967.]

420.5--No special exception shall be required to permit either a Type I or Type II heliport if such use is located: at least 1000 feet from any property line; in an R.6 or R.40 Zone; and beyond the urban-rural demarcation line. [Bill No. 85, 1967.]

420.6--Any helicopter operation caused by emergency is permitted at any time in any zone, in accordance with current regulations of the Federal Aviation Agency. [Bill No. 85, 1967.]

Section 421--ANIMAL BOARDING PLACE, KENNEL, PET SHOP, VETERINARIAN'S OFFICE, VETERINARIUM [Bill No. 85, 1967.]

421.1--Where an animal boarding place or kennel is allowed in a residential zone, either as a Special Exception or as a permitted use, no part of any such use shall be located within 200 feet of the nearest property line. [Bill No. 85, 1967.]

421.2--Where an animal boarding place, kennel, or pet shop is allowed in a business or industrial zone, either as a Special Exception or as a permitted use, no part of such use shall be located within 200 feet of the nearest residential zone. [Bill No. 85, 1967.]

4-85

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

June 2, 1989



Dennis P. Baumann
County Executive

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Exception & Zoning Variance
W/S of Summit Avenue, 823' S of Homeland Avenue
(3205 Summit Avenue)
11th Election District, 6th Councilmanic District
CORNELIUS W. DEMOSS, JR., ET UX - Petitioners
Case No. 89-226-XA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on May 30, 1989 by Georgia Lewis Leonhart, Attorney on behalf of the Petitioners. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,
J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. & Mrs. Cornelius W. DeMoss, Jr. & Christine DeMoss
3205 Summit Avenue, Baltimore, Maryland 21234

Georgia Lewis Leonhart, Inner Harbor Center, Eighth Floor
400 East Pratt Street, Baltimore, Maryland 21202

Georgia Lewis Leonhart, Inner Harbor Center, Eighth Floor
400 East Pratt Street, Baltimore, Maryland 21202

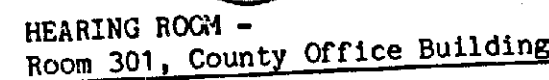
Dale & Kathie Thomas, 9719 Uxbridge Road, Baltimore, MD 21234

Thomas Jenkins, 3200 Summit Avenue, Baltimore, MD 21234

Noradeen & Florence Lehrer, 3203 Summit Ave., Baltimore, MD 21234

Nancy Webster, 9701 Uxbridge Road, Baltimore, MD 21234

Andy & Betty Gall, 9717 Uxbridge Road, Baltimore, MD 21234



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

APPEAL HEARINGS SCHEDULED THE WEEK

OF DECEMBER 25, 1989

TUESDAY 12/26/89 10:00 a.m. CHRISTINE CHIOFOLO
#85-318-SPH NE/s St. George Rd., 825'
(ON REMAND FROM CIRCUIT SE from Middleborough Road
COURT) (327 St. George Road)
15th Election District
SPH -nonconforming use for 3 dwellings
and the expansion of 1 dwelling

TUESDAY 12/26/89 1:30 p.m.
#89-414-XA

LOUIS C. HOFFMAN, ET UX
SE of intersection of Long Green Pike
& Glen Arm Road
11th Election District
6th Councilmanic District

WEDNESDAY 12/27/89 10:00 a.m.
#89-226-XA7

WEDNESDAY 12/27/89 1:00 p.m.
#CBA-89-175

THURSDAY 12/28/89 HEARING ROOM NOT AVAILABLE FOR CBA HEARING

FRIDAY 12/29/89 10:00 a.m. TOWSON COMMONS, W/s York Road between Chesapeake and Pennsylvania Avenues
9th Election District
4th Councilmanic District
#CBA-89-165

cc: Executive Office AND
County Council
Law Office
People's Counsel
Planning Office
Current Planning
Board Members
Court Reporter
Information Desks (2)
✓ Docket Clerk - Zoning

RE: CRG Decision
90-130-SPHA TOWSON COMMONS LTD. PART.
W/s York Rd. between S/s of Penn. Ave.
and the N/s Chesapeake Ave.
9th Election District; 4th Councilmanic District
SPH -modified plan for parking spaces
VAR -setbacks; height and projection, open space
and parking requirements.

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE
for a Kennel, and VARIANCE from :
Section 421.1 of the Baltimore : COUNTY BOARD OF APPEALS
County Zoning Regulations :
N/S of "C" Avenue, 366' : OF
W. of Ross Avenue :
15th District : BALTIMORE COUNTY
Gordon L. Diven, Sr.
Petitioner : No. 78-57-XA

OPINION

This case comes before the Board on an appeal by the Petitioner from an Order of the Zoning Commissioner of Baltimore County, dated November 8, 1977, denying the request for a special exception for a dog kennel, and the accompanying requests for variances.

The petition, in this instance, is for a special exception for a kennel and additionally, a petition for variances from Section 421.1 of the Baltimore County Zoning Regulations to permit setbacks from the property lines of 17 feet, 22 feet, 138 feet and 168 feet in lieu of the required 200 feet. The subject property is located on the north side of "C" Avenue, 366 feet west of Ross Avenue, in the Fifteenth Election District of Baltimore County, and contains 0.340 acres of land, more or less.

Testimony by the Petitioner was presented to the Board about the type of dogs to be housed in the proposed kennels. These are "Huskie" type dogs that Mr. Diven raises, trains, shows and races as a hobby, not as a business. Since a team of sled dogs contains a number of dogs, Mr. Diven needs a special exception for a kennel. Much testimony was presented indicating the care taken of these animals, and the efforts to control noise and maintain cleanliness.

Testimony from Protestants was also taken by the Board. This testimony was diametrically opposed to that of the Petitioner. Protestants claimed that these dogs howl and definitely create odors. A "bug light" installed by Mr. Diven was also noted as bothersome and noisy. All of the above testimony is duly recorded in the transcript of this hearing.

The Board is, in this case, faced with two petitions, one for a special exception and another for variances to permit same. Both are closely related to each

REL PETITION FOR SPECIAL EXCEPTION :	BEFORE
for a Kennel, etc. and for	
VARIANCES from Section 421.1 :	COUNTY BOARD OF APPEALS
and Section 421.x of the	
Baltimore County :	OF
Zoning Regulations	
E/S of Old York Road 1900' :	BALTIMORE COUNTY
N. of Paper Mill Road	
10th District :	
Mary Testudine, et al	No. 80-48-XA
Petitioners :	

OPINION

This case comes before the Board of Appeals on an appeal by the Petitioners for a special exception for a kennel, animal boarding place and a veterinarian, as well as an appeal by the Protestants from the decision of the Deputy Zoning Commissioner granting this special exception with restrictions. The Protestants, comprised of resident homeowners of nearby subdivisions, appealed the granting of the special exception, and the Petitioners' appeal is based on the restrictive controls placed on the request as granted by the Deputy Zoning Commissioner.

The property is a thirty-five (35) acre wooded tract of land located in the Tenth Election District of Baltimore County in an R.C. 4 and R.C. 5 zoned area. The subject property is located on the east side of Old York Road 1900 feet north of Paper Mill Road. It is adjoined on the south and west by one acre lot subdivisions of expensive individual homes. The property to the north and west is undeveloped farmland and woods. The Petitioners propose to build a single story veterinarian, fully enclosed, which would contain the facilities for the adoption and treatment of small animals, primarily dogs and cats, as well as a detached outdoor paddock and barn for the treatment of larger animals. Testimony by expert and many lay witnesses was heard by the Board over a six day period.

The Petitioners case, as well as the Protestants rebuttal, involved a substantial amount of testimony as to the need for this type of facility in this specific area. The Board, in interpreting Section 502 of the Baltimore County Zoning Regulations and in light of Rockville Fuel & Feed Co. vs. Board of Appeals of City of Gaithersburg, 257 Md. 183 (1970) interpreting County codes such as those existing in Baltimore County, finds that need is not an issue which should become the basis of any decision for a special exception in Baltimore County. It is clear, in reviewing Section 502, that the County Council